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To: Microsoft ATR
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Subject: Microsoft Settlement

The settlement of the Microsoft antitrust trial that has been proposed by the Justice Department is weak and inadequate and is not in the public interest. Because of its many exclusions, this settlement would rely upon the greatest of good faith on the part of Microsoft. Microsoft has not admitted to wrongdoing in the present case. They remain as they have shown themselves to be in the past, unwilling to abide in good faith by limits on their conduct. Only the most unambiguous of limits with clear means of enforcement and the prospect of harsh penalties can extract compliance from Microsoft.

Faced with a similarly inadequate settlement in 1994, Judge Stanley Sporkin rejected it. He was overruled and the 1995 consent decree was put in place by Judge Jackson. Microsoft went on to, in the most forgiving view, test the limits of that agreement. A more reasonable view that has emerged from the courts in the present trial is that Microsoft knowingly and systematically violated both the consent decree and the Sherman Act. Accepting a weak settlement in this case will guarantee a repeat of the unfortunate consequences of the 1995 decree.

As a consumer I have watched several times as Microsoft has used its market power to eliminate innovative products that were of interest to me. It is widely acknowledged that venture capitalists will not fund development that Microsoft opposes. This stifles innovation at its root. Microsoft is now moving to use its Windows monopoly to gain control of the ways that consumers use the internet. Although it was deemed unlikely by Judge Jackson at trial, the Internet Explorer browser has approached the status of a monopoly product (many internet web sites work properly only with IE). Such is the power of "comingling" with Windows.

In short, accepting the proposed settlement will harm the public by allowing Microsoft to continue its anticompetitive practices. It should be rejected in favor of a remedy that places clear limits on Microsoft's behavior and meaningful penalties for future abuses.